

BEFORE THE  
OFFICE OF ADMINISTRATIVE HEARINGS  
STATE OF CALIFORNIA

In the Matter of:

PARENT ON BEHALF OF STUDENT,

v.

LOS ANGELES UNIFIED SCHOOL  
DISTRICT.

OAH CASE NO. 2013041171

ORDER DENYING MOTION FOR  
STAY PUT

On April 26, 2012, Student filed a motion for stay put. No opposition from the Los Angeles Unified School District (District) has been received.

APPLICABLE LAW

Until due process hearing procedures are complete, a special education student is entitled to remain in his or her current educational placement, unless the parties agree otherwise. (20 U.S.C. § 1415(j); 34 C.F.R. § 300.518(a) (2006)<sup>1</sup>; Ed. Code, § 56505 subd. (d).) This is referred to as “stay put.” For purposes of stay put, the current educational placement is typically the placement called for in the student's individualized education program (IEP), which has been implemented prior to the dispute arising. (*Thomas v. Cincinnati Bd. of Educ.* (6th Cir. 1990) 918 F.2d 618, 625.)

If a student's placement in a program was intended only to be a temporary placement, such placement does not provide the basis for a student's “stay put” placement, unless the school district and parents agree otherwise. (*Verhoeven v. Brunswick Sch. Comm.* (1st Cir. 1999) 207 F.3d 1, 7-8; *Leonard v. McKenzie* (D.C. Cir. 1989) 869 F.2d 1558, 1563-64.)

DISCUSSION

Student, a 13-year old young woman with intellectual disability, profound hearing loss, and severe communication deficits, and who is nearly blind, contends in her due process hearing request (complaint) that District's IEP of February 20, 2013 does not offer her a FAPE. Student's complaint identifies multiple alleged deficiencies in the IEP, and alleges that the District agreed, in a prior settlement agreement with Student dated June 13, 2012, to include weekly language and speech (LAS) services by a nonpublic agency (NPA) as part of

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<sup>1</sup> All references to the Code of Federal Regulations are to the 2006 edition, unless otherwise indicated.

Student's educational program for the 2012-2013 school year, and to provide a block of compensatory LAS services. Student's stay put motion seeks continuation of weekly LAS services, and an order that these services be provided by the same NPA.

Student's motion is not supported by a sworn declaration. Portions of a heavily redacted, unidentified, unauthenticated document are attached to Student's motion as "Exhibit A"; presumably the heading and one paragraph of the June 13, 2012 agreement. No evidence, admissible or otherwise, is submitted regarding Student's last agreed upon and implemented IEP.

Student's Exhibit A is neither admissible nor complete, and it cannot be determined whether the services included in the settlement agreement were to constitute a part of Student's current educational program, or were to be provided for a limited period of time. Student has failed to establish the components of her last agreed upon and implemented placement. Accordingly, Student's motion for stay put is denied.

IT IS SO ORDERED

Dated: May 03, 2013

/s/

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ALEXA J. HOHENSEE  
Administrative Law Judge  
Office of Administrative Hearings